

First Amendment of the United States Constitution

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

1. What are the protections of the First Amendment?

- Religion:
Congress will not establish a uniform religion for our country or interfere with any person's free exercise of personal religious beliefs. Congress shall not make any laws favoring one faith over another.
- Speech:
Congress will not (unduly) restrict the ability to express ideas and opinions and exchange information through written, verbal or symbolic speech.
- Press:
Publishers in all media may gather and report news and opinions without government interference in their content.
- Assemble:
Congress shall not interfere with the peoples' right to gather for peaceful and lawful purposes.
- Petition the Government:
People may join together to seek change from our government. People who have been wronged by our government may seek relief through our court system or other government action.

Oyez

IIT Chicago-Kent
College of Law

Bethel School District No. 403 v.
Fraser

LOCATION

Bethel High School

DOCKET NO.

84-1667

DECIDED BY

Burger Court (1981-1986)

LOWER COURT

United States Court of Appeals for the Ninth Circuit

CITATION

478 US 675 (1986)

ARGUED

Mar 3, 1986

DECIDED

Jul 7, 1986

ADVOCATES

William A. Coats

Argued the cause for the petitioners

Jeffrey T. Haley

Argued the cause for the respondents

Facts of the case

At a school assembly of approximately 600 high school students, Matthew Fraser made a speech nominating a fellow student for elective office. In his speech, Fraser used what some observers believed was a graphic sexual metaphor to promote the candidacy of his friend. As part of its disciplinary code, Bethel High School enforced a rule prohibiting conduct which "substantially interferes with the educational process . . . including the use of obscene, profane language or gestures." Fraser was suspended from school for two days.

Question

Does the First Amendment prevent a school district from

disciplining a high school student for giving a lewd speech
high school assembly?

Conclusion

Sort: by seniority by ideology

No. The Court found that it was appropriate for the school to prohibit the use of vulgar and offensive language. Chief Justice Burger distinguished between political speech which the Court previously had protected in *Tinker v. Des Moines Independent Community School District* (1969) and the supposed sexual content of Fraser's message at the assembly. Burger concluded that the First Amendment did not prohibit schools from prohibiting vulgar and lewd speech since such discourse was inconsistent with the "fundamental values of public school education."

Cite this page

APA Bluebook Chicago MLA

"Bethel School District No. 403 v. Fraser." Oyez. Chicago-Kent College of Law at Illinois Tech, n.d. Jan 21, 2016.
<<https://www.oyez.org/cases/1985/84-1667>>

Oyez

IIT Chicago-Kent
College of Law

Morse v. Frederick

PETITIONER

Deborah Morse et al.

RESPONDENT

Joseph Frederick

DOCKET NO.

06-278

DECIDED BY

Roberts Court (2006-2009)

LOWER COURT

United States Court of Appeals for the Ninth Circuit

CITATION

551 US 393 (2007)

GRANTED

Dec 1, 2006

ARGUED

Mar 19, 2007

ADVOCATES

Kenneth W. Starr

Edwin S. Kneedler

Douglas K. Mertz

Facts of the case

At a school-supervised event, Joseph Frederick held up a banner with the message "Bong Hits 4 Jesus," a slang reference to marijuana smoking. Principal Deborah Morse took away the banner and suspended Frederick for ten days. She justified her actions by citing the school's policy against the display of material that promotes the use of illegal drugs. Frederick sued under 42 U.S.C. 1983, the federal civil rights statute, alleging a violation of his First Amendment right to freedom of speech. The District Court found no constitutional violation and ruled in favor of Morse. The court held that even if there were a violation, the principal had qualified immunity from lawsuit. The U.S. Court of Appeals for the Ninth Circuit reversed. The Ninth Circuit cited *Tinker v. Des Moines Independent Community School District*, which extended First Amendment protection to student speech except where the speech would cause a disturbance. Because Frederick was punished for his message rather than for any disturbance, the Circuit Court ruled, the punishment was unconstitutional. Furthermore, the principal had no qualified immunity, because any reasonable principal would have known that Morse's actions were unlawful.

Question

- 1) Does the First Amendment allow public schools to prohibit students from displaying messages promoting the use of illegal drugs at school-supervised events?
- 2) Does a school official have qualified immunity from a damages lawsuit under 42 U.S.C. 1983 when, in accordance with school policy, she disciplines a student for displaying a banner with a drug reference at a school-supervised event?

Conclusion

Sort: by seniority by ideology

Yes and not reached. The Court reversed the Ninth Circuit by a 5-4 vote, ruling that school officials can prohibit students from displaying messages that promote illegal drug use. Chief Justice John Roberts's majority opinion held that although students do have some right to political speech even while in school, this right does not extend to pro-drug messages that may undermine the school's important mission to discourage drug use. The majority held that Frederick's message, though "cryptic," was reasonably interpreted as promoting marijuana use - equivalent to "[Take] bong hits" or "bong hits [are a good thing]." In ruling for Morse, the Court affirmed that the speech rights of public school students are not as extensive as those adults normally enjoy, and that the highly protective standard set by *Tinker* would not always be applied. In concurring opinions, Justice Thomas expressed his view that the right to free speech does not apply to students and his wish to see *Tinker* overturned altogether, while Justice Alito stressed that the decision applied only to pro-drug messages and not to broader political speech. The dissent conceded that the principal should have had immunity from the lawsuit, but argued that the majority opinion was "[...] deaf to the constitutional imperative to permit unfettered debate, even among high-school students [...]."

Cite this page

APA Bluebook Chicago MLA

"Morse v. Frederick." Oyez. Chicago-Kent College of Law at Illinois Tech, n.d. Jan 21, 2016.
<<https://www.oyez.org/cases/2006/06-278>>

Oyez

IIT Chicago-Kent
College of Law

Tinker v. Des Moines Independent Community School District

PETITIONER

Tinker

RESPONDENT

Des Moines Independent Community School District

LOCATION

Des Moines Independent Community School District

DOCKET NO.

21

DECIDED BY

Warren Court (1967-1969)

LOWER COURT

United States Court of Appeals for the Eighth Circuit

CITATION

393 US 503 (1969)

ARGUED

Nov 12, 1968

DECIDED

Feb 24, 1969

Facts of the case

In December 1965, a group of students in Des Moines held a meeting in the home of 16-year-old Christopher Eckhardt to plan a public showing of their support for a truce in the Vietnam war. They decided to wear black armbands throughout the holiday season and to fast on December 16 and New Year's Eve. The principals of the Des Moines school learned of the plan and met on December 14 to create a policy that stated that any student wearing an armband would be asked to remove it, with refusal to do so resulting in suspension. On December 16, Mary Beth Tinker and Christopher Eckhardt wore their armbands to school and were sent home. The following day, John Tinker did the same with the same result. The students did not return to school until after New Year's Day, the planned end of the protest. Through their parents, the students sued the school district for violating the students' right of expression and sought an injunction to prevent the school district from disciplining the students. The district court dismissed the case and held that the school district's actions were reasonable to uphold school discipline. The U.S. Court of Appeals for the Eighth Circuit affirmed the decision without opinion.

Question

Does a prohibition against the wearing of armbands in public school, as a form of symbolic protest, violate the students' freedom of speech protections guaranteed by the First Amendment?

Conclusion

Sort: by seniority by ideology

Yes. Justice Abe Fortas delivered the opinion of the 7-2 majority. The Supreme Court held that the armbands represented pure speech that is entirely separate from the actions or conduct of those participating in it. The Court also held that the students did not lose their First Amendment rights to freedom of speech when they stepped onto school property. In order to justify the suppression of speech, the school officials must be able to prove that the conduct in question would "materially and substantially interfere" with the operation of the school. In this case, the school district's actions evidently stemmed from a fear of possible disruption rather than any actual interference.

In his concurring opinion, Justice Potter Stewart wrote that children are not necessarily guaranteed the full extent of First Amendment rights. Justice Byron R. White wrote a separate concurring opinion in which he noted that the majority's opinion relies on a distinction between communication through words and communication through action. Justice Hugo L. Black wrote a dissenting opinion in which he argued that the First Amendment does not provide the right to express any opinion at any time. Because the appearance of the armbands distracted students from their work, they detracted from the ability of the school officials to perform their duties, so the school district was well within its rights to discipline the students. In his separate dissent, Justice John M. Harlan argued that school officials should be afforded wide authority to maintain order unless their actions can be proven to stem from a motivation other than a legitimate school interest.

Cite this page

APA Bluebook Chicago MLA

"Tinker v. Des Moines Independent Community School District." Oyez. Chicago-Kent College of Law at Illinois Tech

